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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,507	03/08/2001	Aaron A. Rosenblatt	CDG-100US	5293

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EXAMINER

HRUSKOCI, PETER A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 09/19/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/801,507

Applicant(s)

ROSENBLATT ET AL.

Examiner

Peter A. Hruskoci

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3-8, 8-22, and 10-16-01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-38 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-3, drawn to a method for producing a mixture, classified in class 423, subclass 351.

II. Claims 4-38, drawn to a method for treating water, classified in class 210, subclass 705.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the mixture of Group I can be used in a materially different method from Group II such as a method for sterilizing articles..

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with James C. Simmons on 9-17-02 a provisional election was made with traverse to prosecute the invention of Group II, claims 4-38.

Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 1-3 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griese et al. in view of Hurst. Griese et al. disclose (see col. 1 line 57 through col. 6 line 9) a method for treating water substantially as claimed. The claim differs from Griese et al. by reciting that a mixed chlorine/chlorine dioxide stream is used to treat the water. Hurst disclose (see col. 7 lines 39-50) that it is known in the art of water treatment to utilize both chlorine dioxide and elemental chlorine in the primary disinfection of raw water, in combination with a solids removal. It is submitted that the screening in Griese et al. and

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the solids removal in Hurst would remove THM precursors from the water. It would have been obvious to one skilled in the art to modify the method of Griesse et al. by utilizing the recited mixed stream in view of the teachings of Hurst, to aid in disinfecting the water.

8. Claims 22-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griesse et al. in view of Harp et al. Griesse et al. disclose (see col. 1 line 57 through col. 6 line 9) a method for treating water substantially as claimed. The claims differ from Griesse et al. by reciting that chlorine dioxide and monochloramine are introduced to cause preoxidation, and after solids removal, and chlorine and ammonia are introduced into the water to provide monochloramine, respectively. Harp et al. disclose (see col. 7 lines 1-30) that it is known in the art of water treatment to disinfect drinking water by adding ammonia and chlorine and forming monochloramines. It would have been obvious to one skilled in the art to modify the method of Griesse et al. by introducing chlorine dioxide and monochloramine, and chlorine and ammonia into the water, respectively, in view of the teachings of Harp et al., to aid in disinfecting the water. The specific ratio of chlorine:ammonia utilized, and the introduction of chlorine dioxide and monochloramine into a side stream, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific water treated and results desired, absent a sufficient showing of unexpected results.

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9. Claims 4-11, 18-21, 29, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griesse et al. in view of Hurst as above, and further in view of Harp et al. The claims differ from the references as applied above by reciting that ammonia is introduced into the water to provide monochloramine. Harp et al. disclose (see col. 7 lines 1-30) that it is known in the art of water treatment to disinfect drinking water by adding ammonia and chlorine and forming monochloramines. It would have been obvious to one skilled in the art to modify the method of Griesse et al. by introducing ammonia into the water in view of the teachings of Harp et al., to aid in disinfecting the water. The specific ratio of chlorine:ammonia utilized, and the introduction of chlorine dioxide and monochloramine into a side stream, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific water treated and results desired, absent a sufficient showing of unexpected results.

10. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griesse et al. in view of Glew et al. Griesse et al. disclose (see col. 1 line 57 through col. 6 line 9) a method for treating water substantially as claimed. The claims differ from Griesse et al. by reciting that the chlorine dioxide and chlorine are provided by separating a stream containing chlorine and chlorine dioxide. Glew et al. disclose (see col. 3 line 24 through col. 4 line 22) that it is known in the art to separate a stream from chlorine dioxide production into streams containing chlorine and chlorine dioxide, respectively.

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It would have been obvious to one skilled in the art to modify the method of Griese et al. by utilizing the recited separated chlorine and chlorine dioxide streams in view of the teachings of Glew et al., to aid in disinfecting the water.

11. Claims 14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griese et al. in view of Glew et al. as above, and further in view of Harp et al. The claims differ from the references as applied above by reciting that ammonia is introduced into the water to provide monochloramine. Harp et al. disclose (see col. 7 lines 1-30) that it is known in the art of water treatment to disinfect drinking water by adding ammonia and chlorine and forming monochloramines. It would have been obvious to one skilled in the art to modify the references as applied above introducing ammonia into the water in view of the teachings of Harp et al., to aid in disinfecting the water. The specific ratio of chlorine:ammonia utilized, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific water treated and results desired, absent a sufficient showing of unexpected results.

12. Claims 32, 34, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griese et al. in view of Glew et al. as above, and further in view of Rosenblatt et al. The claims differ from the references as applied above by reciting that a stream containing gaseous chlorine and chlorine dioxide is passed through a porous bed of sodium chlorite to yield a stream of chlorine dioxide. Rosenblatt et al. disclose (see col.

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4 line 43 through col. 5 line 43) that it is known in the art to pass gaseous chlorine through a porous bed of sodium chlorite to aid in forming a stream chlorine dioxide. It is submitted that the stream passing through the bed in Rosenblatt et al. would include both chlorine and chlorine dioxide. It would have been obvious to one skilled in the art to modify the references as applied above by passing gaseous chlorine and chlorine dioxide through the recited bed in view of the teachings of Rosenblatt et al., to forming the chlorine dioxide stream.

13. Claims 33, 35, 36, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griese et al. in view of Glew et al. and Rosenblatt et al. as above, and further in view of Harp et al. The claims differ from the references as applied above by reciting that ammonia is introduced into the water to provide monochloramine. Harp et al. disclose (see col. 7 lines 1-30) that it is known in the art of water treatment to disinfect drinking water by adding ammonia and chlorine and forming monochloramines. It would have been obvious to one skilled in the art to modify the references as applied above introducing ammonia into the water in view of the teachings of Harp et al., to aid in disinfecting the water. The specific ratio of chlorine:ammonia utilized, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific water treated and results desired, absent a sufficient showing of unexpected results.


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14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (703) 308-3839. The examiner can normally be reached on Monday through Friday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached on (703) 308-1972. The fax phone number for this Group is (703) 872-9310 (non-after finals) and 703-872-9311 after finals.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.


Peter A. Hruskoci
Primary Examiner
Art Unit 1724

P. Hruskoci
September 17, 2002